Kirsten J. Gross *Legislative Service Commission*

H.B. 337

124th General Assembly
(As Introduced)

Reps. Lendrum, Hollister, Webster, Brinkman, Carmichael

BILL SUMMARY

? Creates the position of Executive Director in the State Board of Registration for Professional Engineers and Surveyors.

? Removes the requirement that the State Board of Registration for Professional Engineers and Surveyors adopt regulations or requirements regarding financial responsibility and professional liability insurance.

? Revises the sets of minimum educational and experience qualifications by which a person may be licensed as a professional engineer or surveyor.

? Leaves to the State Board of Registration for Professional Engineers and Surveyors discretion to grant credit for practical experience gained in the armed forces.

? Requires engineering curriculums to be accredited by the engineering accreditation commission of the accreditation board for engineering and technology.

? Establishes names of examinations as the "fundamental examination" and the "principles and practice examination."

? Eliminates the provision that allows the State Board to examine the applicant's knowledge of subjects as the State Board selects from the published curricula of the engineering colleges in Ohio approved by the State Board.

? Removes the restriction on the number of times an applicant for a license may apply for re-examination within the same calendar year.

? Establishes procedures for the use of computer generated seals.

? Eliminates registration without examination of persons licensed by other states for reciprocity purposes.

? Allows the State Board to fine, refuse to renew registration or to deny an applicant the opportunity to sit for an examination or to have the examination scored for various offenses.

? Revises the complaint, investigation, and adjudication procedure of the State Board.

? Prohibits a state authority from accepting or using any engineering or surveying plan from any person not registered as a professional engineer or surveyor.

? Makes other changes in the licensing law governing professional engineers and surveyors.

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CONTENT AND OPERATION

Definitions

Current law defines an "engineer," in part, as a graduate of an accredited engineering curriculum or a curriculum that becomes an accredited engineering curriculum. The bill removes the option for a person to be a graduate of an engineering curriculum that subsequently becomes accredited. (Sec. 4733.01(B).)

Current law defines a "professional surveyor" as a person who engages in the practice of that branch of engineering commonly known as surveying and who is registered as a professional surveyor under Ohio law.

The bill removes references to surveying being a "branch" of engineering and adds to the definition of the practice of surveying that it includes the measuring of contours of the earth's surface. (Sec. 4733.01(E) and (F).)

Prohibitions

Under current law, any person practicing or offering to practice the profession of engineering or of surveying must be registered. The bill specifically adds that a person must be either registered or exempt from registration. (Sec. 4733.02.)

State Board of Registration for Professional Engineers and Surveyors

Members

Under current law, the structure of the State Board of Registration for Professional Engineers and Surveyors (hereafter State Board) consists of four professional engineers and one professional surveyor. Current law requires that

any member must continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 60 days has elapsed, whichever comes first. The members of the State Board currently elects or appoints the following officers annually from its members: a chairperson, a vice-chairperson, and a secretary.

Under the bill, at least one of the four professional engineers also must be a professional surveyor. The bill also removes the 60-day time restriction in office so that a member continues in office past the expiration date of that member's term until that member's successor takes office.

The bill requires the State Board also to appoint an executive director. In the bill, the executive director assumes the duties of the Board secretary under current law. (Secs. 4733.03, 4733.06, 4733.08, and 4733.09.)

Rules and bylaws

Under current law, the State Board is required to adopt all necessary rules, regulations, and bylaws not inconsistent with state and federal laws to govern matters related to its powers, including the fixing of the length of terms of its officers. The State Board is required to include requirements regarding financial responsibility and professional liability insurance.

The bill specifies that rules and bylaws must be adopted in accordance with the Administrative Procedure Act. Under the bill the State Board is not required to adopt regulations or requirements fixing the length of terms of its officers or regarding financial responsibility and professional liability insurance. (Sec. 4733.07.)

Records

Under current law the State Board is required to keep a record of its proceedings and a record of all applicants for registration that shows all of the following:

(1) The name, age, and residence of each applicant;

(2) The date of the application;

(3) The place of business of such applicant;

(4) His educational and other qualifications;

(5) Whether or not an examination was required;

(6) Whether the applicant was rejected;

(7) Whether a certificate of registration was granted;

(8) The date of the action of the board;

(9) Such other information as may be deemed necessary by the board.

The bill removes this specific list and requires applicants to complete an application, under oath, provided by the State Board that includes the applicant's education and experience sufficient for the State Board to evaluate the credentials of the applicant. (Sec. 4733.09.)

Application for registration as a professional engineer

Under current law, an applicant for registration as a professional engineer must show at least one of the following sets of qualifications, which are considered as minimum evidence of qualification to be registered:

(1) Graduation from an approved curriculum in engineering of four years or more in a recognized school or college of engineering, a specific record of an additional four years or more of practical experience in engineering work indicating that the applicant is responsible to be in charge of work; and passing the prescribed written or written and oral examination;

The bill modifies this option so that an applicant must show that the applicant graduated from an accredited engineering curriculum of four years or more and possesses a specific record of four years or more of practical experience acceptable to the State Board, not more than two of which may be after the second year of college but before graduation, indicating that the applicant is competent to be placed in responsible charge of work and passing prescribed written or written and oral examinations;

(2) Possession of eminent and recognized standing in the engineering field, provided the person passes a special written, or written and oral examination if the person satisfies the requirements listed in (1) above and if the person is at least 45 years of age and has a record of not less than 20 years lawful practice of engineering, of which at least ten years have been in responsible charge of outstanding engineering work, of a character acceptable to the State Board. The bill eliminates this option.

(3) Completing four years or more from a college curriculum in engineering that is not approved or in a related science approved by the accreditation board for engineering and technology in engineering technology and eight years or more of progressive experience in engineering work indicating that the applicant is competent to be placed in responsible charge of that work and passing the prescribed written or written and oral examination.

The bill modifies this last option to stipulate that the applicant must have graduated from a college curriculum in engineering not approved by the accreditation board for engineering and technology or graduation from a college curriculum in engineering technology that is accredited by the technical accreditation commission of the accreditation board for engineering and technology and possess eight years or more of practical experience in engineering work acceptable to the State Board, no more than two years of which may be after the second year of college but before graduation indicating that the applicant is competent to be placed in responsible charge of work and passing prescribed written or written and oral examinations. (Sec. 4733.11.)

Application for registration as a professional surveyor

Current law regarding the requirements an applicant must meet to become registered as a professional surveyor are parallel to the requirements of a professional engineer in the area of education, experience, and examination. (See above "***Application for registration as a professional engineer***.") The bill modifies these requirements for surveyors in the same way that it modifies the requirements for professional engineers.

Specific to professional surveyors, the bill requires that an applicant's experience include four years or more of surveying office and field experience of a character acceptable to the State Board at least two years of which shall be after college graduation with at least two of those four years in surveying land boundaries under the direct supervision of a professional surveyor. (Sec. 4733.11(B).)

Sufficient experience for registration as a professional engineer or surveyor

Service in the armed forces

Under current law, engineering or surveying experience in the armed forces must be credited for registration requirement purposes. The bill makes the credit discretionary based on whether the experience is acceptable to the State Board. (Sec. 4733.11(C).)

Approved curriculum

Under current law "an approved curriculum in engineering" is one which has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or one which has been approved by the State Board of Registration for Professional Engineers and Surveyors as having satisfactory standing, and a "recognized school or college of engineering" means any college or university offering an approved curriculum in engineering.

The bill eliminates this definition and requires that the engineering curriculum be accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology. (Sec. 4733.11(A)(2)(a).)

Under current law, "an approved surveying curriculum" must be accredited by the accreditation board for engineering and technology or approved by the State Board.

The bill specifies that the curriculum may be accredited by the related accreditation committee of the accreditation board for engineering technology or approved by the State Board. (Sec. 4733.11(D).)

Educational experience

Under current law, the satisfactory completion of each year of an approved curriculum in engineering and surveying in a school or college approved by the Board as having satisfactory standing, without graduation, is considered equivalent to a year of experience for surveying applicants only. The bill removes this provision. (Sec. 4733.11(F).)

Under current law the execution, as a contractor, of work designed by a professional engineer or professional surveyor, or the supervision of the construction of such work as a foreman or superintendent is not practical experience in engineering or surveying work, unless the work involves engineering or surveying practices, or the applicant presents evidence of additional engineering or surveying experience, indicating that the applicant is competent to be placed in responsible charge of engineering work.

The bill removes work as a foreman from this list of activities not considered practical experience. The bill also removes the provision that allows contractor work to qualify as practical experience if the work involves engineering or surveying practices, or the applicant presents evidence of additional engineering or surveying experience, indicating that the applicant is competent to be placed in responsible charge of engineering work. (Sec. 4733.11(F).)

Examination

Name of the examinations

Under current law, unless otherwise exempt, every applicant for registration as a professional engineer or surveyor is required to pass a written or written and oral examination.

Under the bill, the examinations are named the "fundamentals examination" and the "principles and practice examination." The bill requires applicants to pass

each examination. Under the bill, an applicant may take the fundamental examination after the completion of the required education, or at the discretion of the State Board, during the applicant's concluding term of an approved curriculum. (Sec. 4733.11(H) and (J).)

Designation of intern status

Under current law, upon passing the first stage of the examination process, an applicant receives a certificate showing the applicant's status as an engineer or surveyor in training. An applicant is not eligible to take the second phase of the examination until passing the first.

The bill changes this terminology from engineer or surveyor "in training" to an engineer or surveyor "intern" upon passing the fundamental examination. Under the bill, the applicant is not eligible to take the second examination known as the principles and practice examination until the applicant has passed the fundamentals examination. (Sec. 4733.11(H) to (J).)

Content

Under current law, the examination for engineering and the methods of procedure is required to test the engineering applicant's knowledge to perform engineering services and to design and supervise engineering works. The State Board may examine the applicant's knowledge of subjects as the State Board selects from the published curricula of the engineering colleges in Ohio which have been approved by the State Board.

Under the bill, both examinations must be designed to test the applicant's knowledge to perform professional engineering or surveying services. The fundamentals of engineering or the fundamentals of surveying examination tests the applicant's knowledge of the fundamentals of engineering or surveying as appropriate. The bill eliminates the provision that allows the State Board to examine the applicant's knowledge of subjects as the State Board selects from the published curricula of the engineering colleges in Ohio approved by the State Board. (Sec. 4733.13(A).)

Under current law, in the second stage of the examination for engineers, the applicant must be examined in the major branch of engineering in which the applicant specializes. The major branches of engineering are all those branches in which engineering degrees are conferred by any of the approved engineering colleges of this state. Applicants who specialize in a sub-branch of engineering must be examined in that major branch of engineering of which such sub-branch forms a part. In the second stage of examination for surveyors, the applicant must be tested for the applicant's knowledge and ability to perform surveying services which affect the safety of life, health, and property.

Under the bill, the principles and practices of engineering examination must test the applicant's knowledge of the major branch of engineering for which the applicant specializes. The branches of engineering are all of those branches in which the State Board or the National Council of Examiners for Engineering or Surveying offers an examination. The principles and practices of surveying examination must test the applicant's knowledge of surveying and the law and practices applicable in Ohio. (Sec. 4733.13(B) and (C).)

Re-examination

Under current law an applicant failing an examination may apply for re-examination only once in any calendar year. That restriction is removed from the bill. (Sec. 4733.13(D).)

Applications for registration as a professional engineer or surveyor

Under current law, an applicant is required to complete an application under oath that includes the applicant's technical work and the branch in which the applicant specializes. The bill, instead, requires the applicant to provide a detailed summary of the applicant's engineering or surveying experience as appropriate. The bill makes the current application fee that is required nonrefundable.

Current law requires an applicant to submit an examination fee prior to taking the fundamental examination and a registration fee after passing both examination fees to cover the cost of registration. The bill specifies that both of these fees are nonrefundable. (Sec. 4733.12.)

Registration and issuance of a certificate showing initial registration

Under current law, an applicant who successfully completes all of the requirements of registration as a professional engineer or surveyor is issued a certificate of registration. Under the bill, a successful applicant is registered, and is referred to as "registered" throughout the bill and only receives a certificate to evidence initial registration of the applicant. Any reference to renewing a certificate is replaced with renewing registration. (Sec. 4733.14.)

Under current law, each registrant who holds an unrevoked or unexpired certificate of registration as a professional engineer or professional surveyor in any branch of engineering or surveying on November 1, 1953, is entitled to all the rights and privileges of a registered professional engineer or professional surveyor while the said certificate remains unrevoked or unexpired. Certificates of registration must show the full name of the registrant, have a serial number, and be signed by the chairman and the secretary of the Board under seal of the Board. The bill removes this provision. (Sec. 4733.14.)

Legal seal of registered professional engineers or surveyors

Under current law, plans, specifications, plats, and reports issued by a registrant must be stamped with the legal seal authorized by the State Board during the life of the registrant's certificate, but no person is allowed to stamp or seal any documents with the registrant's seal after the certificate of that registrant has expired or has been revoked, unless the certificate has been renewed or reissued.

Under the bill, plans, specifications, plats, reports, and all other engineering or surveying work products issued by a registrant must be stamped with the seal or bear a computer-generated seal, and be signed and dated by the registrant. The bill prohibits any other person to use the seal, or to sign any documents after the registration of the registrant expires or has been revoked or suspended, unless the registration is renewed or reissued. (Sec. 4733.14.)

Computer generated seals

The bill creates a procedure for the use of computer-generated seals. Except when documents are transmitted electronically to a client or a governmental agency, computer-generated seals may be used on final original drawings on the condition that a handwritten signature and date is placed adjacent to or across the seal. Plans, specifications, plats, reports, and all other engineering or surveying work products that are transmitted electronically to a client or a governmental agency must have the computer-generated seal removed from the electronic file before transmittal. An electronic transmission with no computer-generated seal must have the following inserted in place of the signature and date:

"This document was originally issued by _____ (name of registrant) on _____ (date). This document is not considered a sealed document." (Sec. 4733.14.)

Registration renewal procedure

Under current law, the registration renewal fee is $16 for renewal of a registration as either an engineer or surveyor and $21 for an individual registered as both an engineer and a surveyor. Current law allows the State Board to waive the payment of renewal fees during the period of time the registrant is on active duty in connection with any branch of the armed forces.

The bill eliminates reference to a $21 fee for an individual who renews both an engineer and a surveyor registration. The bill also specifies that, if requested to do so, the State Board may waive fees during the time a person is on active duty. (Sec. 4733.15.)

Temporary registration for individuals

Under current law, the State Board may authorize temporary certification to individuals under the following conditions and requirements:

(1) A person not be a resident of and have no established place of business in this state and practice or offer to practice the profession of engineering or surveying in Ohio, for no more than 60 continuous calendar days in any calendar year and provided the person is legally qualified by registration to practice the profession in the person's own state in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in Ohio. The State Board must establish the fee for a temporary certificate of registration.

(2) The person is not a resident of and has no established place of business in Ohio, or has recently become a resident and practices or offers to practice for more than 60 days in any calendar year the profession of engineering or surveying, if the person has filed with the State Board an application for a certificate of registration and pays the required fee, the temporary certificate of registration to continue only for the time the State Board requires for the consideration of the application for registration and provided the person is legally qualified to practice that profession in the person's own state in which the requirements and qualifications for obtaining a certificate of registration are not lower than in Ohio.

Under the bill, the State Board may authorize temporary registration in the case of an individual who has filed an application for a temporary registration with the State Board. As in current law, the temporary registration only continues for the time it takes the State Board to consider the application. (Sec. 4733.18.)

Reciprocity

Under current law, a person licensed or registered to engage in the practice of engineering or surveying by a proper authority of a state, territory, or possession of the United States, or the District of Columbia and person holding a certificate of qualification issued by the national council of engineering examiners committee on national engineering certification who, in the opinion of the State Board, meets the requirements of Ohio's law, based on verified evidence, may, upon application and payment of the established fee, be registered without further examination except that any person who seeks registration as a professional surveyor must pass a four-hour professional practice examination, devoted to the laws and practices of Ohio prior to receiving registration. The bill eliminates reference to registration without examination for engineers and reduces the four-hour professional practice examination for surveyors to a two-hour examination. (Sec. 4735.19.)

Prohibitions and sanctions

Under current law, the State Board may revoke, suspend, or limit the certificate of registration of any holder of such certificate or reprimand or place on probation the holder of a certificate of registration or the holder of a certificate of authorization who is found guilty of any of the following:

(1) The practice of any fraud or deceit in obtaining a certificate of registration or certificate of authorization;

(2) Any gross negligence, incompetence, or misconduct in the practice of professional engineering or professional surveying as a registered professional engineer or registered professional surveyor;

(3) Aiding or abetting any person to practice professional engineering or professional surveying illegally in the state;

(4) Any felony or crime involving moral turpitude (the bill makes it specific that it is a conviction or guilty plea to such crimes);

(5) Violation of the code of ethics adopted by the state board of registration for professional engineers and professional surveyors (the bill replaces a violation of the code of ethics with a violation of the law governing registered professional engineers and surveyors or any of the rules adopted pursuant to those laws);

(6) Violation of any condition of limitation placed by the State Board upon a certificate of registration or a certificate of authorization.

In addition to the list of sanctions in current law, the bill allows the State Board to fine, refuse to renew, or deny an applicant the opportunity to sit for an examination or to have an examination scored, or impose any combination of disciplinary measures on any applicant or registrant, or revoke the certificate of authorization of any holder found to be or to have been engaged in any one or more prohibited acts or practices. The bill makes failure to abide by or comply with examination instructions a prohibited act. (Sec. 4733.20(A).)

Code of ethics

Under current law, the State Board has the authority to periodically amend and revise the code of ethics. The State Board is required to notify each registrant, in writing, of those revisions. The bill removes the provision that requires notice in writing of those revisions and instead requires notice to be made in accordance with the Administrative Procedure Act. (Sec. 4733.20(B).)

Misconduct

Filing a charge

Under current law, any person may file charges alleging fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any registrant holding a certificate of registration or against any corporation, firm, partnership, or association holding a certificate of authorization. The charges must be in writing, and sworn to by the person, or persons, making them and must be filed with the secretary of the State Board.

Under the bill, any person may file a complaint with the State Board alleging fraud, deceit, gross negligence, incompetence, misconduct, or violation of the laws or rules governing registered professional engineers and surveyors. The complaint must be in writing, but the bill eliminates the requirement that the complaint must be sworn to by the person filing it. (Sec. 4733.20(C).)

Investigation

Under current law, all charges must be investigated and reviewed by the State Board within three months after the date they have been referred, after which all charges, unless dismissed by the State Board as unfounded or trivial, must be heard by the State Board at a hearing in accordance with Chapter 119. of the Revised Code.

Under the bill, investigation by the State Board is discretionary and there is no time limit within which the investigation must commence after receiving the complaint. The bill gives the State Board the power, by subpoena, to compel witnesses to appear and testify in relation to any investigation and may require, by subpoena duces tecum, the production and copying of any book, paper, or document pertaining to an investigation. If a person fails to comply with the subpoena or subpoena duces tecum, the State Board may apply to the Franklin County Court of Common Pleas for an order compelling the person to comply, or for the failure to do so, be held in contempt of court. (Sec. 4733.20(D).)

Hearings

Under current law, the time and place for a hearing is fixed by the State Board and a copy of the charges, together with a notice of the time and place of the hearing, must be personally served on the individual registrant or in the case of a business entity, its agent, or mailed to the last known address of the individual registrant or any firm, partnership, or association holding a certificate of authorization. At any hearing the accused registrant or holder of a certificate of authorization must have the right to appear in person or by counsel, or both, to cross-examine witnesses, and to produce evidence and witnesses. If the accused

registrant or holder of a certificate of authorization fails or refuses to appear, the State Board may proceed to hear and determine the validity of the charges.

Under the bill, the State Board first determines whether there is cause to believe that an applicant, registrant or a holder of a certificate of authorization is or has been engaged in any prohibited act or practice. (See "***Prohibitions and sanctions***" above.) The State Board is required to issue a written charge and notify the applicant, registrant or a holder of a certificate of authorization of the right to an adjudication hearing under the Administrative Procedure Act. If the accused does not request a hearing within the time allowed under the Administrative Procedure Act, then the State Board may determine the validity of the charge and issue an adjudication order in accordance with the Administrative Procedure Act. (Sec. 4733.20(E).)

Discipline

Under current law, if, after a hearing, a majority of the State Board votes in favor of sustaining the charges, the State Board must reprimand the individual or suspend, refuse to renew, or revoke the certificate of registration or the holder's certificate of authorization. The State Board, for reasons it considers sufficient, may reissue a certificate of registration to any person or a certificate of authorization to any corporation, firm, partnership, or association whose certificate has been revoked.

Under the bill, if a majority of the State Board votes in favor of sustaining the charge, the State Board must impose any one or any combination of the sanctions allowed by the law governing registered professional engineers and surveyors. (See "***Prohibitions and sanctions***" above.) For good cause shown, the State Board may reregister any person or reissue a certificate of authorization to any business entity whose registration or certificate have been either revoked or suspended. (Sec. 4733.20(F).)

Reissuance of a certificate of authorization

Under current law, a new certificate of registration, or certificate of authorization to replace any certificate revoked, lost, destroyed, or mutilated, may be issued. Under the bill, the provision addresses certificates of authorization only. (Sec. 4733.20(H).)

Persons acting without registration

Under the bill, if the State Board determines that a person not registered under the law governing registered professional engineers and surveyors is, has been, or is about to be engaged in activities that require registration, the State Board may issue a notice to that person, offering the person an adjudication

hearing to show why the person should not be subject to the laws requiring registration. After a hearing under the Administrative Procedure Act, or after the time for a hearing expires, the State Board may issue an adjudication order that orders the person to cease from the activity that is the subject of the charge. The order must identify the activities in which the person is, has been, or is about to be engaged that requires registration. The State Board may impose a fine not to exceed $500 per day for each activity if the State Board determines that the activity subjects the person to registration. A person aggrieved by this may appeal the action to the proper court of common pleas. (Sec. 4733.201.)

Engaging in a contract with a person not registered

Under current law, all officers of the law of Ohio, or of any political subdivision, must enforce and prosecute any persons violating those laws. Under the bill, public authorities are prohibited from accepting or using any engineering or surveying plan from any person not registered as a professional engineer or professional surveyor.[1] (Sec. 4733.23.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-02-01	p. 810

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[1] *"Public authority" means the state, or a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of the state or a county, township, municipal corporation, school district, or other political subdivision. (Sec. 153.65(A).)*